

AMENDED IN SENATE JUNE 15, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

No. 1443

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Introduced by ~~Committee on Water, Parks and Wildlife (Huffman (Chair), Fuller (Vice Chair), Arambula, Tom Berryhill, Blumenfield, Caballero, Fletcher, Bonnie Lowenthal, John A. Perez, Salas, and Yamada)~~ *Assembly Member Huffman*

February 27, 2009

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~~An act to add Sections 392, 393, 2020, and 12014 to the Fish and Game Code, relating to fish and wildlife. An act to add Section 12012.87 to the Government Code, relating to gaming.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1443, as amended, ~~Committee on Water, Parks and Wildlife Huffman. Fish and wildlife enforcement. Gaming compacts: local support.~~

*The federal Indian Gaming Regulatory Act provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature.*

*This bill would authorize the Governor to consider the presence or absence of local support when negotiating a tribal-state gaming compact to allow class III gaming on Indian lands, as specified. The bill would include a related statement of legislative findings and declarations.*

~~(1) Existing law provides for reciprocal agreements with adjoining states with regard to fishing rights and law enforcement.~~

~~This bill would authorize the Director of Fish and Game, or a designated representative, to enter into reciprocal operational agreements with authorized representatives of any Oregon, Nevada, or Arizona state law enforcement agency to promote expeditious and effective law enforcement service to the public, and assistance between the members of the department and those agencies, in areas adjacent to the borders of this state and each of the adjoining states. The bill would deem any regularly employed law enforcement officer of an Oregon, Nevada, or Arizona state law enforcement agency a peace officer in this state, if specified conditions are met.~~

~~(2) Under existing law, except as expressly provided otherwise, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under the code, is a misdemeanor.~~

~~This bill would provide that it is unlawful to violate specific regulations adopted by the department and the commission, thereby imposing a state-mandated local program by creating new crimes.~~

~~(3) Under existing law, the violation of certain provisions of the code are subject to administrative penalties.~~

~~This bill would authorize the department, after the expiration of the time period to appeal an administrative penalty, to apply to the clerk of the appropriate court for a judgment to collect the administrative civil penalty.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: *yes-no*.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) The federal Indian Gaming Regulatory Act of 1988 (IGRA)*
- 4     *authorizes federally recognized Indian tribes to conduct class III*
- 5     *gaming on Indian lands within the tribe's jurisdiction, to the extent*
- 6     *those games are permitted by state law, and pursuant to a gaming*
- 7     *compact negotiated between a tribe and the state.*

1     ***(b) IGRA requires the state to negotiate in good faith for the***  
2     ***conclusion of tribal-state gaming compacts with Indian tribes that***  
3     ***request negotiations when those tribes have eligible Indian lands***  
4     ***located in the state.***

5     ***(c) In 1998, California voters approved Proposition 5, a***  
6     ***statutory measure designed to allow for the operation of slot***  
7     ***machine and house banked card gaming by California Indian***  
8     ***tribes on Indian lands in accordance with federal law. In 1999,***  
9     ***the California Supreme Court held that most of the provisions***  
10    ***enacted by Proposition 5 were unconstitutional.***

11    ***(d) In 2000, California voters approved Proposition 1A,***  
12    ***amending the California Constitution to authorize the Governor***  
13    ***to negotiate and conclude compacts, subject to ratification by the***  
14    ***Legislature, for the operation of slot machines, and for the conduct***  
15    ***of lottery games and banked and percentage card games by***  
16    ***federally recognized Indian tribes on Indian lands in California***  
17    ***in accordance with federal law.***

18    ***(e) During the campaigns to approve Propositions 5 and 1A,***  
19    ***proponents assured California voters that Indian lands were mainly***  
20    ***in remote, rural areas of the state and that approval of these***  
21    ***measures would not result in tribal casinos being located in urban***  
22    ***areas.***

23    ***(f) In the general election of 2004, two initiative measures,***  
24    ***Propositions 68 and 70, that would have expanded gaming***  
25    ***activities in urban areas were placed before the California voters.***

26    ***(g) Proposition 68 was defeated with 83.8 percent of the***  
27    ***electorate voting against it and Proposition 70 was defeated with***  
28    ***76.3 percent of the electorate voting against it.***

29    ***(h) There is increasing public concern over the location,***  
30    ***expansion, and impact of tribal gaming on nontribal lands in***  
31    ***California.***

32    ***(i) There are over 100 federally recognized Indian tribes in***  
33    ***California and many of those tribes have Indian lands within the***  
34    ***tribe's jurisdiction that are eligible for class III gaming.***

35    ***(j) Subdivision (d) of Section 12012.25 of the Government Code***  
36    ***designates the Governor as the state official with authority to***  
37    ***negotiate and execute tribal gaming compacts on behalf of the***  
38    ***state.***

39    ***(k) Subdivisions (c) and (e) of Section 12012.25 of the***  
40    ***Government Code provide that tribal-state gaming compacts***

1 negotiated by the Governor are subject to ratification by the  
2 Legislature.

3 (l) An increasing number of Indian tribes are seeking to take  
4 new land into trust for purposes of conducting class III gaming  
5 activities pursuant to the provisions of IGRA, often in urban areas.

6 (m) In May 2005, Governor Arnold Schwarzenegger issued a  
7 proclamation that he would (1) oppose proposals for the federal  
8 acquisition of lands within any urbanized area where the lands  
9 sought to be acquired in trust are to be used to conduct or facilitate  
10 gaming activities; (2) decline to engage in negotiations for  
11 tribal-state gaming compacts where the Indian tribe does not have  
12 Indian lands eligible for class III gaming; (3) consider requests  
13 for gubernatorial concurrence to allow a tribe to conduct class  
14 III gaming on newly acquired land only when (A) the land that is  
15 sought for class III gaming is not within any urbanized area, (B)  
16 the local jurisdiction in which the tribe's proposed gaming project  
17 is located supports the project, (C) the tribe and the local  
18 jurisdiction demonstrate that the affected local community supports  
19 the project, such as by a local advisory vote, and (D) the project  
20 substantially serves a clear, independent public policy, separate  
21 and apart from any increased economic benefit or financial  
22 contribution to the state, community, or the Indian tribe that may  
23 arise from gaming.

24 (n) It is therefore the intent of the Legislature, with respect to  
25 all Indian gaming proposals on nontribal lands, to encourage the  
26 Governor to negotiate a tribal-state gaming compact only when  
27 land has been taken into trust and when the local jurisdiction and  
28 the local community in which the tribe's proposed gaming project  
29 would be located actually support the project, and, in the absence  
30 of that local support, it is the intent of the Legislature not to ratify  
31 the compact.

32 SEC. 2. Section 12012.87 is added to the Government Code,  
33 to read:

34 12012.87. When engaging in negotiations for a tribal-state  
35 gaming compact to allow class III gaming on Indian lands within  
36 the tribe's jurisdiction, the Governor may consider the presence  
37 or absence of local support demonstrated by both of the following:

38 (a) The results of an advisory vote in the county or counties in  
39 which the tribe's Indian lands are located, either approving or  
40 disapproving a proposed gaming facility.

1     **(b)** *One or more intergovernmental agreements enforceable in*  
2 *state court, that include provisions to mitigate the impacts of the*  
3 *proposed gaming and related activities, executed by the Indian*  
4 *tribe and each of the following entities:*

5     **(1)** *The incorporated city or city and county in which the Indian*  
6 *lands are located, or, if the land is not located within an*  
7 *incorporated city or city and county, the county or counties in*  
8 *which the land is located.*

9     **(2)** *Each county that is contiguous to the county in which the*  
10 *land is located and that is likely to be substantially impacted by*  
11 *the proposed gaming and related activities, as reasonably*  
12 *determined by the board of supervisors of the county and set forth*  
13 *in a measure specifying the nature of anticipated impacts that are*  
14 *no more than 75 miles from the proposed gaming facility, and the*  
15 *estimated costs of mitigation.*

16     **SECTION 1.** ~~Section 392 is added to the Fish and Game Code,~~  
17 ~~to read:~~

18     ~~392. (a) The director, or a designated representative, may enter~~  
19 ~~into reciprocal operational agreements with authorized~~  
20 ~~representatives of any Oregon, Nevada, or Arizona state law~~  
21 ~~enforcement agency, including, but not limited to, the Oregon State~~  
22 ~~Police, the Nevada Department of Wildlife, and the Arizona Game~~  
23 ~~and Fish Department, to promote expeditious and effective law~~  
24 ~~enforcement service to the public, and assistance between the~~  
25 ~~members of the department and those agencies, in areas adjacent~~  
26 ~~to the borders of this state and each of the adjoining states pursuant~~  
27 ~~to Section 393.~~

28     ~~(b) The reciprocal operational agreement shall be in writing and~~  
29 ~~may cover the reciprocal exchange of law enforcement services,~~  
30 ~~resources, facilities, and any other necessary and proper matters~~  
31 ~~between the department and the respective agency.~~

32     ~~(c) Any agreement shall specify all of the following:~~

33     ~~(1) The involved departments, divisions, or units of the agencies.~~

34     ~~(2) The duration and purpose of the agreement.~~

35     ~~(3) Responsibility for damages.~~

36     ~~(4) The method of financing any joint or cooperative~~  
37 ~~undertaking.~~

38     ~~(5) The methods to be employed to terminate an agreement.~~

1     ~~(d) The director may establish operational procedures in~~  
2     ~~implementation of any reciprocal operational agreement that are~~  
3     ~~necessary to achieve the purposes of the agreement.~~

4     ~~SEC. 2. Section 393 is added to the Fish and Game Code, to~~  
5     ~~read:~~

6     ~~393. (a) Any regularly employed law enforcement officer of~~  
7     ~~an Oregon, Nevada, or Arizona state law enforcement agency,~~  
8     ~~including, but not limited to, the Oregon State Police, the Nevada~~  
9     ~~Department of Wildlife, or the Arizona Game and Fish Department,~~  
10    ~~is a peace officer in this state if all of the following conditions are~~  
11    ~~met:~~

12    ~~(1) The officer is providing, or attempting to provide, law~~  
13    ~~enforcement services within this state, within a distance of up to~~  
14    ~~50 statute miles of the contiguous border of this state and the state~~  
15    ~~employing the officer, or within waters offshore of this state in the~~  
16    ~~Exclusive Economic Zone.~~

17    ~~(2) The officer is providing, or attempting to provide, law~~  
18    ~~enforcement services pursuant to either of the following:~~

19    ~~(A) In response to a request for services initiated by a member~~  
20    ~~of the department.~~

21    ~~(B) In response to a reasonable belief that emergency law~~  
22    ~~enforcement services are necessary for the preservation of life,~~  
23    ~~and a request for services by a member of the Department of Fish~~  
24    ~~and Game is impractical to obtain under the circumstances. In~~  
25    ~~those situations, the officer shall obtain authorization as soon as~~  
26    ~~practical.~~

27    ~~(3) The officer is providing, or attempting to provide, law~~  
28    ~~enforcement services for the purpose of assisting a member of the~~  
29    ~~Department of Fish and Game in response to misdemeanor or~~  
30    ~~felony criminal activity, pursuant to the authority of a peace officer~~  
31    ~~as provided in subdivision (c) of Section 830.2 of the Penal Code,~~  
32    ~~or, in the event of emergency incidents or other similar public~~  
33    ~~safety problems, whether or not a member of the department is~~  
34    ~~present at the scene of the event.~~

35    ~~(4) An agreement pursuant to Section 392 is in effect between~~  
36    ~~the Department of Fish and Game and the agency of the adjoining~~  
37    ~~state employing the officer, the officer acts in accordance with that~~  
38    ~~agreement, and the agreement specifies that the officer and~~  
39    ~~employing agency of the adjoining state shall be subject to the~~

1 ~~same civil immunities and liabilities as a peace officer and his or~~  
2 ~~her employing agency in this state.~~

3 ~~(5) The officer receives no separate compensation from this~~  
4 ~~state for providing law enforcement services within this state.~~

5 ~~(6) The adjoining state employing the officer confers similar~~  
6 ~~rights and authority upon a member of the department who renders~~  
7 ~~assistance within that state.~~

8 ~~(b) Notwithstanding any other provision of law, any person who~~  
9 ~~is acting as a peace officer in this state in the manner described in~~  
10 ~~this section shall be deemed to have met the requirements of~~  
11 ~~Section 1031 of the Government Code and the selection and~~  
12 ~~training standards of the Commission on Peace Officer Standards~~  
13 ~~and Training if the officer has completed the basic training required~~  
14 ~~for peace officers in his or her state.~~

15 ~~(c) A peace officer of an adjoining state shall not provide~~  
16 ~~services within a California jurisdiction during any period in which~~  
17 ~~officers of the department are involved in a labor dispute that~~  
18 ~~results in a formal work slowdown or stoppage.~~

19 ~~SEC. 3.— Section 2020 is added to the Fish and Game Code, to~~  
20 ~~read:~~

21 ~~2020. It is unlawful to violate any provision of Division 1~~  
22 ~~(commencing with Section 1.04) of Title 14 of the California Code~~  
23 ~~of Regulations. Violation of such a provision may be charged as~~  
24 ~~a violation of this section or of the specific section of Title 14~~  
25 ~~provision, and shall be punishable as provided in Section 12000.~~

26 ~~SEC. 4.— Section 12014 is added to the Fish and Game Code,~~  
27 ~~to read:~~

28 ~~12014. After the expiration of the time period to appeal an~~  
29 ~~administrative penalty imposed pursuant to Sections 2301, 2302,~~  
30 ~~2582, or 2583, or any other provision of this code, the department~~  
31 ~~may apply to the clerk of the appropriate court for a judgment to~~  
32 ~~collect the administrative civil penalty. The application, including~~  
33 ~~a certified copy of the order imposing the civil penalty, a hearing~~  
34 ~~officer's decision, if any, or a settlement agreement, if any, shall~~  
35 ~~constitute a sufficient showing to warrant issuance of the judgment.~~  
36 ~~The court clerk shall enter the judgment immediately in conformity~~  
37 ~~with the application. The judgment so entered has the same force~~  
38 ~~and effect as, and is subject to all the provisions of law relating~~  
39 ~~to, a judgment in a civil action, and may be enforced in the same~~  
40 ~~manner as any other judgment of the court in which it is entered.~~

1     ~~SEC. 5.—No reimbursement is required by this act pursuant to~~  
2     ~~Section 6 of Article XIII B of the California Constitution because~~  
3     ~~the only costs that may be incurred by a local agency or school~~  
4     ~~district will be incurred because this act creates a new crime or~~  
5     ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
6     ~~for a crime or infraction, within the meaning of Section 17556 of~~  
7     ~~the Government Code, or changes the definition of a crime within~~  
8     ~~the meaning of Section 6 of Article XIII B of the California~~  
9     ~~Constitution.~~

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